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S. Gareth Graham

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1 husband to see her car somewhere, so what she would do is  
2 park it at the Giant so she would have an alibi in case he  
3 saw her car and tried to find her.

4 Q. Did she tell you this?

5 A. Sure. She told me that, and she said if he ever  
6 comes in the grocery story I'll tell him I was in the  
7 bathroom.

8 And lot of times she took groceries home to cover  
9 the fact that she had parked in the parking lot and had gone  
10 with me for an hour and a half. So she intentionally bought  
11 groceries to take home to provide an alibi of around these  
12 encounters.

13 Q. Did you have anal intercourse with her on more  
14 than occasion?

15 A. One occasion, ma'am.

16 Q. Just one?

17 A. Just one.

18 Q. You didn't like it?

19 A. I did it at her, basically at her request,  
20 because she was somewhat angry with me that I would never  
21 ejaculate in her. So she saw this as a way that I could  
22 ejaculate in her butt as opposed to in her vagina.

23 Q. She told you that?

24 A. Yes, she did.

25 Q. Did she like it?

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1           A.       I don't know. I mean, she was happy that I  
2 fulfilled a consummation of ejaculation inside her. That was  
3 what she was wanting and that's what I did.

4           Q.       Why didn't you do it again?

5           A.       I don't know. We just never got into that again.

6           Q.       And this occurred, this anal intercourse, one  
7 occasion, near the correctional facility?

8           A.       Right on the road directly beside the state  
9 correctional institution. There's a single tree and then  
10 there's a high bank, and it was in a secluded area where  
11 nobody in the yard of the state correctional institution  
12 could see you.

13                   We would always park in a location where there  
14 was a long area in front of us and a long area in back of us  
15 and no -- you know, we would find a road, we would find roads  
16 that had a seclusion atmosphere or environment. And then  
17 that way -- most of the time she would wear a dress.

18                   She would call me up on the phone at work and she  
19 would say: I have no panties on today, I'm wearing a teddy  
20 today. And usually the days that we were going to and  
21 pre-planned to have sex, she wore a dress, and then she would  
22 crawl over onto my lap and we would have sex in my car. And  
23 it was a -- it's not the most flattering way to have sex but  
24 we were involved with each other in those terms.

25           Q.       Your car or her car for the anal intercourse?

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1 A. My car.

2 Q. Did it generally occur in your car rather than  
3 hers?

4 A. Yes, ma'am.

5 Q. Did you have the same car throughout this sexual  
6 relationship?

7 A. I had different cars. I had, like, an old Jeep,  
8 I don't know the year. It was a Grand Wagoneer. And I had a  
9 Toyota car that I still drive today because I bought that in  
10 1990. So a lot of it was in my Toyota and some of it was in  
11 my Jeep.

12 Q. What cover did you use with your wife?

13 A. What cover?

14 Q. Yeah.

15 MR. MacMAIN: Do you understand what she means by  
16 cover?

17 THE WITNESS: Yeah. What in regard to, the trip,  
18 like, the Atlantic City or something? The time we went down  
19 to Atlantic City?

20 BY MS. WALLET:

21 Q. Did you tell your wife you were working at these  
22 times?

23 A. I don't think I told my wife anything.

24 Q. I see. You just wouldn't show up after work on  
25 this occasion and --

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1           A.       Ma'am, these incidents only lasted about -- our  
2       infatuation with each other would consummate the act of sex  
3       and we were done within an hour most times. It wasn't a real  
4       flattering sexual type of loving relationship. It was more  
5       of an infatuation and excitement drove the moment.

6           Q.       I see. Did you love her?

7           A.       Did I love who?

8           Q.       Ms. Varner.

9           A.       No.

10          Q.       Did you ever tell her that you loved her?

11          A.       No.

12          Q.       Did she ever tell you that she loved you?

13          A.       No.

14          Q.       It was purely for sex?

15          A.       Yes, ma'am.

16          Q.       And she used the words mature adult relationship?

17          A.       Yes.

18          Q.       And she said: We're simply having this mature  
19       adult relationship and it's not really an infidelity?

20          A.       No. She said that she was dissatisfied with her  
21       husband's performance at home, she was dissatisfied with him  
22       going golfing, she was dissatisfied with him paying a country  
23       club tuition, she was dissatisfied with him in his sexual  
24       performance and watching X-rated movies.

25          Q.       What else did she tell you about her relationship

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1 with her husband?

2 A. That's pretty much the list. She didn't like his  
3 smoking. She didn't like his flirting at work. She gave me  
4 the name of Blaine Budman, a guy that worked at PPG, and her  
5 husband and Blaine's wife had been engaged in some, I don't  
6 know, type of horseplay. I don't think it was anything  
7 sexual, but -- and she was jealous of that and told me that,  
8 like, she was wanting to retaliate for those type of things,  
9 how he acted.

10 She was basically resentful of his position and  
11 his traveling because, you know, I mean, I guess she thought  
12 she was controlled. She had related on her first husband  
13 that he was controlling. She had come to me, she had come to  
14 Joe, she had said when she was hired first in Probation that  
15 she was an abused woman. Her husband was a truck driver for  
16 UPS, this Mr. Spidle, he was abusive to her, according to  
17 her. And she resented some of the things, you know, he did.

18 Q. Okay. Now, we're back to you didn't have to tell  
19 your wife anything because it wasn't unusual for you to be  
20 not at home?

21 MR. MacMAIN: Objection. That's not what he  
22 said. He said there was an hour period of time.

23 MR. THOMAS: At some point, Deb, I need a break,  
24 but I don't want to interrupt your line of questioning.

25 MS. WALLET: Okay. We'll break within a half

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1 hour. Is that acceptable? Is that all right for you,  
2 Ms. Williams?

3 (Discussion held off the record. Recess taken  
4 from 12:03 until 12:11 p.m.)

5 BY MS. WALLET:

6 Q. We were discussing whether you needed to tell  
7 your wife that you were somewhere else in order to avoid  
8 periods of time when you were not at home, and you said no,  
9 you did not need to do that?

10 A. I didn't discuss with my wife, you know, period  
11 of time, because usually it occurred between noon at work and  
12 ended before 5:00, so my wife didn't have any knowledge of  
13 this whatsoever.

14 Q. Did you have occasion to tell your wife that you  
15 were somewhere other than with Ms. Varner?

16 A. The time I went to Atlantic City on that bus trip  
17 with her, I told my wife that I was going down to my sister's  
18 and just taking the day off to go down there.

19 Q. Did you tell your wife on any other occasions  
20 that you were somewhere else when, in fact, you were with  
21 Ms. Varner?

22 A. No.

23 Q. Now, at some time this sexual relationship ended,  
24 correct?

25 A. Yes.

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1 Q. When did it end?

2 A. In State College, somewhere in October during a  
3 DUI conference that she testified to yesterday. I don't know  
4 the exact date.

5 Q. Do you know what year it was?

6 A. Not exactly. Maybe '96. '97. '97. I'm not  
7 sure.

8 Q. And how did the sexual relationship end?

9 A. We were on a -- we were on a commitment trip to  
10 George Junior Republic. I'm not sure of the guy's name; I  
11 think it was Chauncey Shields. We had taken a juvenile out.

12 And after I got promoted to supervisor I told  
13 Mrs. Varner that this couldn't keep -- this couldn't work,  
14 this couldn't keep going on. And I watched her then  
15 associate with people in the office, and there was a lot of  
16 disgruntled employees because we had recently split the  
17 department --

18 MR. MacMAIN: Her question was when did it end?  
19 When was it ended?

20 THE WITNESS: That DUI conference was the last  
21 sexual experience I had with her in State College at the  
22 Nittany Lion Inn. She had called my room five o'clock in the  
23 morning. I was rooming with Hank Thielemann. He can  
24 validate that she made the call. I didn't meet her as she  
25 testified yesterday in the evening. She called me at five

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1 o'clock in the morning. Hank said to me, what's she calling  
2 for. And I said, she wants to go walking. She wants to go,  
3 you know, on a morning walk.

4 I went down to her room. She invited me in, and  
5 we had sex there. That was the end of it.

6 During the DUI conference there was a number of  
7 people, Sam Miller, Denny Drachbar, Hank, I don't know who  
8 else. Barb. Barb had gone up early on Monday. She  
9 testified yesterday that she had a -- didn't -- the reason  
10 she went up early was she had failed the CRN evaluation for  
11 the Pennsylvania Drunk Driving program. Yesterday she  
12 testified that that didn't happen, but it did. She had  
13 failed the test originally for the CRN evaluator test. So  
14 she went up to retake the test the Monday before the  
15 conference started on Tuesday. And she wanted me to go up  
16 early with her, and I refused, and I said, I cannot make  
17 alibis to cover our activities and these guys will be  
18 suspicious.

19 So I would not go up with her Monday, and she was  
20 pissed at that. So she went up, took her test. I met with  
21 her Tuesday morning. I think that was the Tuesday morning  
22 she called. Hank will validate that she called my room or  
23 our room I was sharing with Hank. And I left and went down,  
24 engaged in sex with her, and then went walking with her, to  
25 cover our early-morning activities.



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1           She became angry at me at this conference because  
2   I didn't use this conference as exclusive time with her. She  
3   felt that this was an opportunity for the two of us to have  
4   extra time together that we wouldn't normally have. And I  
5   had gone out with different guys and I said, well, I'm not  
6   going to just go with you out to dinner, I'm going to go with  
7   the rest of the people, and she was angry at that.

8           She did leave the conference early.

9           Q.     And is it your testimony that she left early  
10   because she was angry with you?

11          A.     She left early because she was angry that I  
12   wouldn't spend exclusive time with her up there as opposed to  
13   going out to eat with Denny Drachbar, Sam and the rest of the  
14   people.

15          Q.     How many people were at this conference?

16                 MR. MacMAIN: Total? Or from the county?

17                 MS. WALLET: Total.

18   BY MS. WALLET:

19          Q.     Hundreds?

20          A.     No.

21          Q.     Dozens?

22          A.     Wait a minute. Wait a minute. It's an annual --  
23   I would say hundreds. Maybe a hundred, 130. That's a  
24   guesstimate.

25          Q.     And your recollection is this conference was what

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1 kind of conference?

2 A. It was a DUI annual conference. The Driving  
3 Under the Influence Association every year has a yearly  
4 conference, and at that conference you attend training  
5 sessions to get and to keep your certification to teach as an  
6 instructor for the DUI schools, and as a CRN evaluator to  
7 administer a Court Reporting Network instrument to anybody  
8 that gets arrested for drunk driving.

9 Q. How many individuals from Cumberland County  
10 attended this conference?

11 A. What I remember is Denny Drachbar, Sam Miller,  
12 Hank Thielemann, Barb, and myself. I can't remember. Or I  
13 mean, there could have been, you know, a couple others. We  
14 have a number of DUI instructors in our office. A lot of  
15 them elect not to go to the annual conference. But that's  
16 the people I know of that were there.

17 Q. You think Barb Varner was the only woman from the  
18 Probation office at that time?

19 A. At that conference --

20 MR. MacMAIN: I'll object. That's not what he  
21 said. He said there may have been other people, he couldn't  
22 recall.

23 BY MS. WALLET:

24 Q. Do you remember any other women besides  
25 Ms. Varner?

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1           A.       No, because she had a room to herself, and if  
2       there would have been another woman, she would have been  
3       sharing that conference room with another woman. And she  
4       went up early, so I don't know if maybe that was the reason,  
5       I mean, that she got her single room. I'm not sure about  
6       that. But that could be her contention.

7           Q.       Okay. And you had sex with her on which day of  
8       the conference?

9           A.       I think it was a Tuesday.

10          Q.       And did she leave immediately thereafter?

11          A.       It might have been -- I'm sorry. It might  
12       have -- I'm trying to think. It might have -- because we  
13       went up a day later. If she went up on Monday, we would have  
14       gone up on Tuesday. It might have been Wednesday of that. I  
15       would say Wednesday is my estimation of when she called the  
16       room. But Hank was there and he said, who the hell's that  
17       calling in the middle of the night, or in the middle of the  
18       morning.

19          Q.       Did you identify her as Barb Varner?

20                   MR. MacMAIN: You mean when the call came in and  
21       Hank said who was that?

22                   THE WITNESS: Yes.

23           BY MS. WALLET:

24          Q.       So you told Hank that Barb Varner was on the  
25       phone?

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1           A.       Yes. He asked me who the hell was that.

2           Q.       You didn't just say Barb?

3           A.       No.

4           Q.       It's your belief that you said Barb Varner?

5           A.       I said Barb Varner, because I left and went to

6 her room, had sex and then went walking with her to disguise

7 that.

8           Q.       But you didn't tell Mr. Thielemann that you had

9 gone to her room to have sex?

10          A.       I told him I was going to her room to meet her.

11          Q.       What else did you tell him as a result of that

12 telephone conversation?

13          A.       Nothing. I just left.

14          Q.       Okay. So the phone rings at five o'clock in the

15 morning?

16          A.       Right.

17          Q.       Do you answer it or does he answer it?

18          A.       5:30. I think I answered it.

19          Q.       Okay. Tell me what happened in this

20 conversation. Hello. Give me the rest of it. Are we going

21 to get together at this conference, she says?

22          A.       Um-hum.

23          Q.       Okay. What do you say?

24          A.       And I said yes. And she said, well, you want to

25 come down to the room.

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1 Q. And you said?

2 A. And I said yes. And she said, we can disguise  
3 this that we went walking, tell Hank that we went walking.

4 Q. And you said?

5 A. Okay.

6 Q. Good-bye?

7 A. Hang up.

8 Q. During this conversation did you say anything  
9 like, something, Barbara? Did you use her name?

10 A. Yes. Hank asked me who was on the phone, and I  
11 said Barbara Varner, she wants to go walking.

12 Q. Well, that's not my question. My question is:  
13 During this conversation did you say something followed by  
14 the words Barb or Barbara?

15 MR. MacMAIN: What she wants to know is what  
16 words Hank would have heard you say on the phone call.

17 MS. WALLET: Precisely.

18 MR. MacMAIN: Right. Do you understand? Hank's  
19 hearing your end of the conversation. She wants to know  
20 other than what you've said, yes, yes and okay, was there  
21 anything else you said?

22 THE WITNESS: I don't know what Hank would have  
23 heard about my conversation because he was just waking up and  
24 he was saying to me, who the hell's on the phone, and I said  
25 that's Barb Varner and she wants to go walking. So that's

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1 the extent of it.

2 BY MS. WALLET:

3 Q. Okay. Now, is it your testimony, sir, that  
4 Ms. Varner left the conference early because you told her  
5 that you were ending the sexual relationship?

6 A. No. I just didn't pay any attention to her  
7 individually up there. And she wanted to go out and have  
8 dinner and have a time to ourselves, and I said that can't  
9 happen because all these guys are here and they're going to  
10 ask where I went to eat and, you know.

11 Q. This was a three-day conference?

12 A. Usually they're three-day conferences, right.

13 Q. And you went Monday?

14 A. No. She went Monday. I went up Tuesday morning,  
15 and I think Wednesday morning was the call she made to me.

16 Q. And you think the conference was Tuesday,  
17 Wednesday, Thursday?

18 A. Yes.

19 Q. Okay. And you were there and she was there on  
20 Tuesday. She wanted to have dinner with you Tuesday?

21 A. I think we -- I don't recall.

22 Q. Did she want to have dinner with you Wednesday?

23 A. After the -- yeah, that evening, after we had --  
24 I had met her in the morning.

25 Q. And you thought that she wanted to have dinner

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1 with you Thursday?

2 A. Yes. Or Thursday --

3 Q. So those were the three dinners that you thought  
4 she wanted to have with you, and she was mad because you  
5 wouldn't?

6 A. Not three dinners. She didn't specify, you know,  
7 which. She just wanted to have some time together up there  
8 by ourselves. I'm not going to say there was three meals.

9 Q. How did you travel to this conference?

10 A. That's interesting. I don't know, either -- I  
11 think Hank drove.

12 Q. Personal car or county car?

13 A. Personal car, his car.

14 Q. You don't think you drove?

15 A. No.

16 MS. WALLET: We'll take a lunch break.

17 (Recess taken from 12:28 until 1:02 p.m.)

18 BY MS. WALLET:

19 Q. We're back after the break. You understand  
20 you're still under oath, Mr. Graham?

21 A. Yes.

22 Q. I may be a bit distracted here, so if I repeat  
23 something, I ask you to forgive me.

24 We're still at the Penn State conference.

25 A. Okay.

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1 Q. Did you tell her at the Penn State conference  
2 that you were ending this relationship? Or did you identify  
3 this time only as the last time you had sex with her?

4 A. I identified that as the last time I was having  
5 sex with her.

6 Q. So at some later time you broke off the  
7 relationship?

8 A. Yes. We had taken one trip together out, after  
9 that October date, I think it was a December trip out to  
10 George Junior Republic.

11 Q. Did you have sex on that trip?

12 A. No.

13 Q. Okay.

14 A. It was a commitment trip.

15 Q. And it was during that trip that you broke off  
16 this relationship?

17 A. Yes.

18 Q. And how did you do that?

19 A. I advised Mrs. Varner that this couldn't keep  
20 working. Since I had been promoted to her boss, we couldn't  
21 keep this affair together, it wasn't going to work.

22 What I experienced at work is when I would  
23 correct her, some of her deficient reports, she would get  
24 angry at me. She had submitted time sheets asking for  
25 basically extra favors out of me that she never asked out of



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1 Joe, and that was when she was attending the master's degree  
2 program at Shippensburg University. She wanted me to approve  
3 training hours to go to a free master's degree program that  
4 she was participating in. And I said, you didn't submit your  
5 request to Joe for payment of those hours, and she took  
6 offense to that. That was one of the things.

7 And basically, quite honestly, I just got  
8 consumed with the amount of work I had dumped in my lap as a  
9 supervisor, and our relationship deteriorated. I watched her  
10 align with all the disgruntled employees in our office and I  
11 just lost interest in her, and I think she lost interest in  
12 me.

13 Q. Would you say that this ending was mutual?

14 A. Neither one of us had any other episodes to  
15 resurrect anger that we had towards each other, so I would  
16 say it was mutual.

17 Q. So you were angry at her at the time?

18 A. No.

19 Q. She was angry at you?

20 A. Yes.

21 Q. And what did she do to express her anger?

22 A. She was just angry that I had totally ignored her  
23 and not made an effort to resurrect the kind of relationship  
24 we had previously.

25 Q. My question was: What did she do to express her

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1 anger? Did she tell you that she was angry? Did she do  
2 something?

3 A. She went to other co-workers and complained about  
4 my supervision level. She complained about me as a  
5 supervisor. She complained about assignments being unfair.  
6 She complained to Judge Sheely about the seniority list being  
7 unfair. And just a multitude of different complaints. And  
8 there was no attraction at that point where I found that she  
9 aligned with all these angry people in our office.

10 And I'm not saying that everyone was angry every  
11 day, but the workload was phenomenal. When we split those  
12 departments there was 650 referrals, and I'm not going to go  
13 on a tirade. There was 12 people in each department. Just  
14 in less than three years later they have 20 people in the  
15 Adult section and 21 people in the Juvenile section. I don't  
16 know what percentage increase between 12 and 21 people are.  
17 I was replaced with three supervisors. So I'm not telling  
18 you that I didn't -- I was overwhelmed, Ms. Wallet.

19 Joe came to the job, he was angry of what Ken  
20 Bolze had done. He was angry also that --

21 Q. He, Mr. Osenkarski?

22 A. Mr. Osenkarski, and he was angry and the rest of  
23 the staff were angry about what John Ward had done, trying to  
24 take the chief's positions out of a 40-year operation by a  
25 partisan political process and try to be a numbers cruncher

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1 and be in a position to not promote those men to the job that  
2 they were deserving.

3 Q. Now, you're saying that she was angry at you for  
4 ending this affair and that's why she did these things? Or  
5 something else?

6 MR. MacMAIN: Objection. I'm not sure that  
7 that's what he said.

8 MS. WALLET: That's why I've asked him.

9 THE WITNESS: I'm sorry.

10 BY MS. WALLET:

11 Q. Are you saying that she was angry at you for  
12 ending this affair and that's why she did those other things?

13 A. Yes. I think it was a way of retaliating against  
14 me for ignoring her.

15 Q. Now, you never made any claim that you were the  
16 victim of some retaliation here, have you?

17 A. I've been -- I was angry at Judge Hoffer and the  
18 action he took against me. Did I make a claim? I don't  
19 think I have a claim as an at-will employee. I don't even  
20 know who I'm really employed by. I don't think you know who  
21 is my true employer, and I don't think the Federal Court  
22 knows who my true employer is. I mean, that distinction I  
23 think gave you trouble when you first applied to, for her  
24 comments towards what forum to hear this case. It's really  
25 unfortunate that, you know, you work in a correctional -- you

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1 work for judges and -- I won't go on to that.

2 Q. Why are you confused about where you're employed  
3 or who employs you?

4 A. Well, when I needed representation, I had an  
5 attorney seek out who could represent me, and I was told by  
6 the -- I got a letter from the AOPC that I was not a -- from  
7 Zygmunt Pines that I was not a court employee.

8 Q. Okay.

9 A. And I think Mr. Thomas and Mr. Dellasega's last  
10 brief indicated that I'm not really a county employee, or  
11 it's their contention that I might not be a county employee.  
12 So that the paradox is between, you know, who belongs to  
13 what.

14 Q. Did you think that you were subject to the county  
15 personnel policies?

16 A. Absolutely.

17 Q. Why did you believe that?

18 A. That was the personnel manual that the county  
19 distributed to all the county personnel.

20 Q. To the best of your knowledge, while you've been  
21 employed in the Probation office, let's limit it to the  
22 Probation office, did you believe that the county personnel  
23 policy manual had a no-harassment policy?

24 A. Yes, it did. I mean, I think it was covered in  
25 general terms under, you know, harassment policy, and it was

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1 a procedure clearly outlined in that policy, in that manual  
2 that allowed people to have relief from that, from those  
3 situations.

4 Q. And do you agree that periodically you were given  
5 a county personnel policy and you were asked to sign  
6 indicating that you had received it and acknowledged that you  
7 were subject to it?

8 A. How far back do you want to go? I have an '84  
9 one. I have maybe an '88 one. I have every one that they  
10 ever produced.

11 MS. WALLET: Let's mark this as Graham  
12 Deposition 1. We'll mark both of them 1 and 2.

13 (Graham Deposition Exhibits 1 and 2 were marked.)

14 BY MS. WALLET:

15 Q. I've handed you what we've had marked as  
16 Deposition Exhibits 1 and 2. Do you recognize your  
17 signatures on those documents?

18 A. Yes, ma'am.

19 Q. Let me ask you about Deposition No. 1. You  
20 signed your name as Stewart G. Graham.

21 A. Correct.

22 Q. Is that your name?

23 A. That's my full name.

24 Q. You told the county in 1981 that you were  
25 changing your name or you wanted to change your name to S.

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1 Gareth Graham. Is that correct?

2 A. That's correct.

3 Q. Why did you do that, sir?

4 A. Because everybody knows me as Gary and nobody  
5 knows me as Stewart.

6 Q. So your formal name is Stewart G. Graham?

7 A. Stewart Gareth Graham, yes.

8 Q. In any event, Deposition No. 1 has something  
9 stricken out. Do you know who did that?

10 A. No.

11 Q. Do you believe that it was stricken before you  
12 were asked to sign this?

13 A. That's 22 years ago. I don't know. I don't --

14 MR. MacMAIN: If you don't know, you don't know.

15 THE WITNESS: I don't know.

16 BY MS. WALLET:

17 Q. Deposition No. 2 references a county sexual  
18 harassment policy dated 3/9/01. I assume your signature  
19 indicates that you received that policy?

20 A. Yes.

21 Q. And you agreed at that time to be bound by it,  
22 correct?

23 A. Yes.

24 Q. Do you know, sir, why a sexual harassment policy  
25 was issued on March the 9th of '01?

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1           A.       No, I would be -- I guess that came from the  
2   Human Resources section.

3           Q.       Do you believe it had anything to do with the  
4   case filed by Ms. Varner?

5           A.       I don't know what it had to do with.

6           Q.       Have you received any sexual harassment training  
7   while you've been employed?

8           A.       Yes.

9           Q.       When was that?

10          A.       In the recent years, '96 or '97. '97. And then  
11   I think every subsequent year thereafter we've had sexual  
12   harassment training.

13          Q.       Were you aware that there was a requirement that  
14   the Probation officers attend training in sexual harassment  
15   as a result of the complaints filed by Ms. Varner?

16          A.       I don't know that to be true, no.

17          Q.       Were you ever told that you were being required  
18   to attend sexual harassment training because of something  
19   Ms. Varner did?

20          A.       I was told that it was a requirement to attend  
21   sexual harassment training because it was an adopted county  
22   policy, and nothing to the -- any further, nothing having to  
23   do with Mrs. Varner.

24          Q.       Did you attend sexual harassment training at the  
25   same time as Ms. Varner?

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1           A.       On what Joe referred yesterday to the corrective  
2   action plan, and as part of that plan he was, I guess Joe was  
3   charged with setting up an exclusive sexual harassment  
4   training for the Probation staff. And I guess, I think Joe  
5   had arranged that through Mazzitti and Sullivan like he  
6   testified to yesterday, and I attended that.

7           Q.       So when you just told me that you didn't think  
8   you had to attend sexual harassment training because of  
9   anything related to the Varner complaints, did you forget  
10   this time?

11           MR. MacMAIN: Objection to the form. He didn't  
12   say that.

13           THE WITNESS: I didn't say that, no.

14   BY MS. WALLET:

15           Q.       Let me ask it more clearly. Was there ever a  
16   time when you were required to attend sexual harassment  
17   training because of complaints that Ms. Varner had filed?

18           A.       No.

19           Q.       So you didn't think your having to attend this  
20   particular sexual harassment training had anything to do with  
21   Ms. Varner's complaints?

22           A.       No.

23           Q.       What kind of corrective action plan was it?

24           A.       I would let Joe speak to that because I didn't  
25   have anything to do with it.



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1 Q. Have you seen this corrective action plan?

2 A. No.

3 Q. How did you know there was a corrective action  
4 plan?

5 A. That's what Joe testified to yesterday.

6 Q. And you didn't know about it before yesterday?

7 A. I think he was charged by Judge Sheely, or I  
8 don't know who it was from. No. I don't. I don't know. I  
9 don't know. I just know that I never saw a plan of  
10 corrective action from Joe's desk. I just heard him talk  
11 about a corrective action plan.

12 Q. Mr. Graham, were you angry that you had to attend  
13 the sexual harassment seminar at which Ms. Varner was also in  
14 attendance?

15 A. No.

16 Q. Did you display any anger at that sexual  
17 harassment training?

18 A. I think she alleged in her Complaint that I read  
19 that I glared and stared at her, I positioned myself to look  
20 at her, and I didn't do any of those things.

21 Q. You didn't glare at her?

22 A. No.

23 Q. You didn't seat yourself directly across from  
24 her?

25 A. No. I was in the room before she came in. She I

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1 think sat with Debra Green is what I remember how that came  
2 about.

3 Q. And you did nothing at that harassment training  
4 to indicate some displeasure with Ms. Varner?

5 A. Nothing at all.

6 Q. Mr. Graham, you indicated that you had had sex in  
7 Mrs. Varner's home.

8 A. Correct.

9 Q. Was that in one location or more than one  
10 location?

11 A. Multiple locations.

12 Q. Tell me where you had sex with Mrs. Varner in her  
13 home.

14 A. In her master bedroom.

15 Q. Actually, that's not what I meant.

16 A. Okay. On the bed or?

17 Q. I meant the address.

18 MR. MacMAIN: The address of the home.

19 BY MS. WALLET:

20 Q. What addresses?

21 A. Her York address.

22 Q. And what was the address of that location?

23 A. Is it Etters? I don't know the number. I mean,  
24 it's an Etters address. I don't even remember the street. I  
25 know it's back the end of the, like, a cul-de-sac, or a

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1 one-way road. You can only go in one way and out one way.

2 Q. Okay. How many times did you have sex at that  
3 location?

4 A. Probably eight or nine. Probably less than 10.  
5 I'm not exact -- I don't know exactly if that's the right  
6 amount. Frequently.

7 She had called me one time she was having a gas  
8 fireplace, gas fireplace, what do you call that when they  
9 convert your fireplace in the basement to gas. You know,  
10 they ran a gas line into her fireplace in the basement of the  
11 home. And she was off so that -- she had to be off work that  
12 day so that they could install this gas fireplace insert. I  
13 mean, whether it was just the gas line coming in or the --  
14 and she called me that day and said, do you want to come  
15 down, they've come here early, I have the rest of the day  
16 free and Lee's out of town, or he's out on business.

17 So I went, I had sex with her that day in her  
18 basement. She has berber carpet in her basement we covered  
19 up with a red wool, like, an Indian blanket.

20 I can narrate, you know, the description of the  
21 room. We had sex on the floor and on the couch there. Her  
22 husband had a Brooklyn Dodgers, I think it was a baseball  
23 uniform hanging up on the wall. I think she had two  
24 different cameras downstairs. She had pictures of her kids.  
25 She told me to not go near the doors because her neighbors

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1     nextdoor, they were -- he was a well driller and that I  
2     shouldn't go near the window for fear that the neighbors  
3     would see.

4             Q.       And this was at the Etters address in York?

5             A.       Yes.

6             Q.       Eight or nine times you had sex there?

7             A.       Yes, ma'am.

8             Q.       Okay.

9             A.       And you said where else, and I --

10            MR. MacMAIN: She'll ask you. Just listen to her  
11     questions. She said Etters right now.

12     BY MS. WALLET:

13            Q.       What other address?

14            A.       That I had sex with her?

15            Q.       Yes.

16            A.       At my home.

17            Q.       No. What other address that was the home of  
18     Ms. Varner.

19            A.       I had met with her at the Weatherburn Drive  
20     address in outside of New Cumberland, Beacon Hill  
21     development. What I remember, she had a townhouse, it was on  
22     the end she bought.

23                    Actually, she sold that townhouse to a former  
24     Cumberland County Commissioner's daughter, Rose Mary Peifer,  
25     I think, Howard's daughter. And she was in a position that

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1 she didn't know how to do her taxes that year, so she asked  
2 my advice. And her, I think her tax, income tax form, her  
3 and her husband's income tax form was done by my accounting,  
4 at Howard accounting in Newville. And I think that's  
5 probably a matter of record, too. I'm not positive.

6 Q. How many times did you have sex in the  
7 Weatherburn address?

8 A. I never had sex in the Weatherburn house, but I'm  
9 familiar with the layout of the house. We would embrace  
10 inside the front door. We would sit on her couch and pet and  
11 fondle each other.

12 Q. But no sex there?

13 A. No sex there, ma'am.

14 Q. So the only location where Ms. Varner had her  
15 home where you had sex was the Etters address somewhere  
16 outside of York?

17 A. The Etters address, and --

18 MR. MacMAIN: She was just asking about her  
19 addresses.

20 THE WITNESS: Her address, yes. Okay, I'm sorry.

21 BY MS. WALLET:

22 Q. No other locations that Ms. Varner had as her  
23 home where you had sex?

24 A. No.

25 Q. Now, let's go back to sex at the Etters address.

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1 Is that how you want to refer to it?

2 A. That's fine.

3 Q. Okay. More than five occasions, you're not sure?

4 A. I'd say almost 10 or maybe more. I would have to  
5 look at her husband's travel schedule.

6 MR. MacMAIN: Gary, just listen to her question.  
7 She wanted you to give an estimate. You gave an estimate.

8 THE WITNESS: Okay.

9 BY MS. WALLET:

10 Q. Were these always times when Mr. Varner was  
11 traveling?

12 A. Not always.

13 Q. What dates would you have had sex with her in her  
14 home when Mr. Varner was not away?

15 A. I wouldn't know when he was away or not away,  
16 only on what she would tell me. So I don't have any validity  
17 to validate when he was actually there or when he was away or  
18 he wasn't away. I only could go on what she would tell me,  
19 so I didn't know, Ms. Wallet.

20 Q. Okay. Well, were there times when you had sex in  
21 the Etters address where she told you her husband was not  
22 away?

23 A. Well, that, I think that gas fireplace insert was  
24 one of the times that he wasn't away, but she was there at  
25 the house alone by herself. And since the installation had

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1 occurred I think earlier than she anticipated, it gave her a  
2 free afternoon, you know, because he was on business  
3 somewhere.

4 Q. Did she call you at work?

5 A. Sure.

6 Q. Would she call you on your regular desk phone or  
7 on your cell phone?

8 A. I don't know if we had cell phones back then.

9 Q. So the phone would ring on your desk?

10 A. Yes.

11 Q. Was there a receptionist of some sort?

12 A. Well, that -- yes. What would happen is after  
13 she -- it would ring directly, and after three rings it would  
14 go out to the front desk.

15 Q. Okay. So if you picked it up on the first three  
16 rings, you got it and you avoided the receptionist?

17 A. That's correct. And that was kind of a plan that  
18 we had originated between the two of us, to make sure that we  
19 answered.

20 Q. Okay. Now, you wanted to tell me where within  
21 this home you had sex. On the floor, on the couch in the  
22 basement. Where else?

23 A. In her bedroom, master bedroom on her bed.  
24 Directly across from the bedroom there's a room that she used  
25 to call her sewing room. That was, I think that was the

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1 first, that was -- the first time I had sex with her there  
2 that's where we had sex, in the sewing room.

3 Q. Was there a bed in the sewing room?

4 A. I think so. Yeah.

5 Q. Anywhere else?

6 A. Mostly in the basement of the house, because I  
7 would park behind her residence. There was a -- adjacent to  
8 her property there was a rental unit, and I would usually  
9 park my car over near the rental unit, walk in and she would  
10 plan to meet me at the back sliding glass door.

11 Q. Okay.

12 A. And I could walk in the back without having my  
13 car disclosed.

14 Q. Describe the master bedroom in the Etters  
15 residence.

16 A. She has a split-level house. When you go up the  
17 front steps you turn to the right, the first room you come to  
18 is the bathroom. The second room you come to on the  
19 left-hand side is the master bedroom.

20 Q. One bed, two beds?

21 A. I think one bed. Maybe a king size or queen  
22 size, I'm not sure. The bed against the inside wall facing  
23 outside.

24 Q. What color is it?

25 A. I don't know.



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1 Q. Any other furniture in that room?

2 A. I don't recall. I think there was a TV in that  
3 room.

4 Q. Do you recall anything else about the master  
5 bedroom?

6 A. No.

7 Q. Any other locations in that house where you had  
8 sex with Ms. Varner?

9 A. No. Mostly in the basement. I think one  
10 occasion in the sewing room, and one occasion in the master  
11 bedroom. That's it.

12 Q. Now, you had sex in your home, correct?

13 A. Yes, ma'am.

14 Q. And what address was your home where you had sex  
15 with Ms. Varner?

16 A. 2037 Ritner Highway, Carlisle, PA.

17 Q. Who resided in that home with you at the time?

18 A. My wife and children.

19 Q. Two children?

20 A. Two girls, right.

21 Q. How many occasions did you have sex with  
22 Ms. Varner at the 2037 Ritner Highway address?

23 A. You asked me that earlier. I said three times:  
24 Once in the garage, once in living room, and once in the,  
25 what I call Florida room.

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1 Q. I didn't ask you, but when you told us about the  
2 sex at Ms. Varner's house, are we talking about three  
3 separate occasions, or sex in three places on one occasion?

4 MR. THOMAS: Objection to form.

5 MR. MacMAIN: Objection. I don't understand --  
6 hold on. I don't understand the question, so.

7 BY MS. WALLET:

8 Q. Okay, I'll be happy to clarify it. You told me  
9 that you had sex eight or nine times in the Etters address.

10 A. I know. Right.

11 Q. Would you have sex one time on each of those  
12 visits? Or are we talking about you had sex eight or nine  
13 times but might have only been in one visit?

14 A. No. It was all separate visits.

15 Q. Separate visits.

16 A. One time in the master bedroom, one time in the  
17 sewing room, and all the rest were downstairs in the  
18 basement.

19 Q. Okay.

20 A. We did it, we engaged in sex on the floor and on  
21 her sectional couch down there.

22 Q. Now, I'm back to sex at 2037 Ritner in Carlisle.

23 A. Okay.

24 Q. Three separate occasions?

25 A. Yes.

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1 Q. During the day or after work?

2 A. During the day, over the lunch hour.

3 Q. Where did you park when you went to your house?

4 A. Usually put the car in the garage. That's how we  
5 had sex in the garage. We just parked, I parked my car in  
6 the garage so my wife wouldn't see that there was a car at  
7 the residence for any reason. I have a separate detached  
8 garage that we pulled into, and had sex in the car.

9 Q. Okay.

10 A. And then the other occasions I think I went in  
11 and let the garage door come down and put my vehicle inside.

12 Q. Did your wife work for the county at this period  
13 of time?

14 A. Yes, ma'am.

15 Q. Did she work full-time?

16 A. Yes.

17 Q. Did she ever go home for lunch?

18 A. Yes.

19 Q. Were you fearful of being discovered having sex  
20 with someone not your wife by your wife?

21 A. Yes, I was.

22 Q. But you did it, anyway?

23 A. Yes, I did.

24 Q. Did you select this location as the place to have  
25 sex?

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1           A.       Yes. I would have made that decision based on  
2 variables of where I thought my wife was at, maybe.

3           Q.       How old were your children at that time?

4           A.       Well, I'll let you figure out the math, but my  
5 daughter, my oldest daughter was born in '84 and my youngest  
6 daughter was born in '88. So it was early '90s. No. It was  
7 not till '92 I had the first sex, so it was after that. '93,  
8 '94, '95. Something like that. Whatever my children's ages  
9 were.

10          Q.       So this sexual relationship spanned at least two  
11 years, if not more?

12          A.       It spanned -- the sexual relationship went from  
13 that February, Valentine's Day back in '92 the whole way  
14 until the Nittany Lion Inn in 1996.

15          Q.       Does Ms. Varner have any distinguishing marks  
16 that are not visible when she's wearing clothes?

17          A.       She has a scar at the base of her back, about her  
18 waistline.

19          Q.       Describe the scar.

20          A.       A one-inch scar, no particular -- might have a  
21 slight curve in it.

22          Q.       Do you know why she got that scar?

23          A.       She testified yesterday that she got that scar as  
24 a result of an injury that she had received as a child, I  
25 think. The day before, she testified that she didn't have a

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1 scar anywhere about her body.

2 What she told me was -- I asked her, you know,  
3 did she have -- I asked her if she had back surgery, and I  
4 was under the understanding that she might have had back  
5 surgery because I don't know, I think she told me that. But  
6 evidently she didn't have back surgery, so. And that's why I  
7 remember the mark, because, you know, I questioned, I said,  
8 do you have a disc problem or something. It's at her lower  
9 back on -- near the top of her butt. Not as far down as the  
10 tailbone or anything, it's up further near her waistline or  
11 something.

12 Q. Any other distinguishing marks?

13 A. Well, she told me she had dental surgery to  
14 correct, like, her teeth, she had all her teeth capped, but  
15 she testified that she didn't have her teeth capped. So I  
16 don't know without getting her dental records if what she  
17 told me was the truth or what she's telling during this  
18 deposition is to be the truth. I don't know. I mean, I  
19 guess only her dentist would know if she had her teeth  
20 redone. But she told me that.

21 I think she told me things like she had broken a  
22 few toes or something at one time. And I don't know what  
23 that was a result of.

24 Q. Any other distinguishing marks?

25 A. Not that I can recall.

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1 Q. Is there any other intimate detail about  
2 Ms. Varner that only someone who had a sexual relationship  
3 with her would know about her?

4 MR. MacMAIN: Objection as to form. You want to  
5 narrow that? You mean personal information that was  
6 revealed? It's pretty --

7 MS. WALLET: It doesn't matter. Either.

8 MR. MacMAIN: I'll continue to object to the  
9 form, but if you can answer that.

10 THE WITNESS: I mean, she was very orgasmic. I  
11 don't know if that's a specific incident or not.

12 Anything else that I would know? Things that she  
13 testified to yesterday that she wasn't into oral sex with her  
14 first husband at all and had only been introduced to oral sex  
15 with her new husband, Lee.

16 She described -- not -- I mean, this gets off the  
17 point, to her first husband where she said he used to dig at  
18 his crotch until he wore his jeans out. I mean, you can ask  
19 Mr. Spidle about that. She said he reeked of fuel oil all  
20 the time I guess from being a truck driver.

21 Things like her daughter had hooked up with a  
22 black gentleman, Cindy had hooked up with a black gentleman  
23 down in North Carolina, and she was concerned about her  
24 ending up with a black man. I don't know if she's a racist  
25 or not, but she was concerned about that.

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1                   And how her daughter got introduced to the black  
2 man is because Lee's daughter Sherry was also hooked up with  
3 some black man and having a relationship. And I remember  
4 explicitly, you know, she had sought out my advice on what  
5 she could do to end this relationship between her daughter  
6 Cindy and this Kevin was his name.

7                   And actually, I think she even employed her first  
8 husband to take Cindy back to North Carolina for some reason  
9 so that he could talk to her about not ending up with this  
10 guy named Kevin. And he had been up I think at Ms. Varner's  
11 house for a Thanksgiving dinner or something, and she showed  
12 up with this black guy.

13                   So, those kind of, that I mean, that's not a  
14 physical thing but those are some of the intimacies hat she  
15 had shared with me. I mean --

16           Q.       Is there anything physical that you would know or  
17 only someone who had sex with her would know?

18                   MR. MacMAIN: Same objection.

19                   Is there anything else that you can recall about  
20 her physically other than what you've testified to?

21                   THE WITNESS: That she has olive skin. I mean,  
22 and -- she worked out quite a bit at the gym and she had  
23 solid calves. She was proud of the strength of her legs for  
24 some reason. I mean, she was always bragging about, you  
25 know, going to the Y and when she would run into Kerry Houser

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1 or something like that, and the police chief up there in  
2 Carlisle, and she was always telling me about how he would  
3 try to hit on her. Margeson. Margeson is his name.

4 She also told me, too, at the --

5 MR. MacMAIN: She asked you physical. Is there  
6 anything else physical?

7 THE WITNESS: Not other than her teeth, her toes,  
8 scar on her back.

9 She always -- she said to me about her self  
10 professed, like, double nipple. And that was some kind of a  
11 cartilage. It wasn't an exterior type of thing but an  
12 interior type of thing, you know, it was involved with her  
13 breast, I mean --

14 BY MS. WALLET:

15 Q. Did you observe that?

16 A. There's nothing to observe. I mean, it's what  
17 she told -- basically what she told me. It doesn't protrude  
18 or anything else, it's just something that she claimed was  
19 unique to her.

20 Q. So she doesn't have a double nipple?

21 MR. MacMAIN: If you can answer the question.  
22 The question, I think the original question was --

23 THE WITNESS: No. I mean, she has some type of  
24 cartilage under her nipple that's enlarged is what she told  
25 me.



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1 BY MS. WALLET:

2 Q. Well, did you observe that, sir? Is my question.

3 A. I don't recall that. I don't remember it. I

4 mean --

5 Q. Did you ever kiss her breast?

6 A. Yes, ma'am.

7 Q. More than once?

8 A. Sure.

9 Q. In a position to observe her nipple?

10 A. Sure.

11 Q. And you didn't observe anything?

12 MR. MacMAIN: Objection. He said it wasn't  
13 observable, it was under the skin so there was nothing to  
14 observe.

15 THE WITNESS: Yes.

16 BY MS. WALLET:

17 Q. Could you feel it?

18 A. I think she was -- she had pointed it out to me.  
19 I don't really remember feeling it, no.

20 Q. Is there anything, sir, that wasn't discussed  
21 over the last two days that you know about Barbara Varner of  
22 an intimate nature that you haven't already told us about?

23 A. Well, she said that when her first husband kicked  
24 her out because he always accused her of peddling her ass  
25 around Mechanicsburg, she had gone to live with somebody that

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1 owns Wilcox Forging. Now, I don't know, I think Mr. MacMain  
2 asked the question do you know a Kay Wilcox, but maybe it  
3 wasn't, maybe it was a different name. Some Kay lady that  
4 she had lived with and her husband had taken her in because  
5 she told me she was living on the street and out of her car.  
6 And this former friend of hers, okay, and this, I think they  
7 were involved with Wilcox Forging, a forging company in  
8 Mechanicsburg, that she had -- she was taken in when her  
9 first husband kicked her out. And then she said they really,  
10 they helped her, you know, get through her first episode of  
11 separation.

12 Q. Mr. Graham, were you aware of any gynecological  
13 problems that Ms. Varner had during the period of time that  
14 you were having sex with her?

15 A. I think she had a bladder problem. I think she  
16 would have a, like, a leaky bladder, because on occasion when  
17 we would have sex, you know, she would be embarrassed because  
18 she would, you know, when she would -- she would sometimes,  
19 you know, just I guess pee, you know. I don't know how else  
20 to describe it.

21 Q. Would she bring a change of clothes with her?

22 A. No, not usually.

23 Q. On those occasions where you had sex in the car  
24 during lunch time, did she return to work?

25 A. Not usually, no. Neither one of us did.

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1 Q. So you would have sex at lunch time and then you  
2 would both go home?

3 A. Sometimes.

4 Q. Ever return to work after sex?

5 A. Not often.

6 Q. More than five times?

7 A. I can't give an estimation on that when we  
8 returned home after sex and when we didn't.

9 Q. Any other gynecological problems that you were  
10 aware of?

11 A. I think she told -- yeah. I think she told me  
12 she had a, like, a D&C procedure done before. She had a  
13 procedure done to put salt in her varicose veins. That's  
14 something that just came back to memory since you're talking  
15 about that. She had been treated for salt solution in some  
16 of her -- spider veins, she didn't have varicose veins.  
17 Spider veins.

18 She had a D&C. And we had had sex before that  
19 and she wanted me to ejaculate in her because, like, it was  
20 an opportunistic time to consummate the entire act of  
21 ejaculation inside her due to this D&C that she was going to  
22 have performed the next day or something like that. So she  
23 said that would be a way to avert having her get pregnant.

24 Q. She indicated that she wanted to get pregnant to  
25 you?

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1           A.       No. I just never trusted her the whole way.  
2       That's why I didn't ejaculate in her.

3           Q.       Well, what was the reference to pregnancy?

4           A.       The pregnancy would occur if I would ejaculate in  
5       her. That was the reference. And the D&C would be -- I  
6       don't know what's the procedure, but it's a scraping of the  
7       uterine wall, and evidently that would kill any sperm that  
8       would happen to be in there or something. I'm not a doctor,  
9       I don't know.

10          Q.       So she wanted to have sex with you immediately  
11       after the D&C procedure or immediately before?

12          A.       I think before.

13          Q.       And she told you why? That was a question. What  
14       reason did she give you as to why?

15          A.       That would be a way to consummate the act fully  
16       of ejaculating in her and not worry about getting her  
17       pregnant, because she was worried about getting pregnant and  
18       I was worried about her getting pregnant. I had a vasectomy  
19       after my relationship ended with Ms. Varner but I didn't have  
20       it before.

21          Q.       When did you have a vasectomy, sir?

22          A.       I knew you were going to ask. I don't know.  
23       Just -- it was after, within the last four years.

24          Q.       Well, was it before or after you were transferred  
25       to the prison?

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1           A.       It was after I transferred, after I lost my job  
2   in Probation.

3           Q.       You think it was within the last four years?

4           A.       Yes, ma'am.

5           Q.       Any other gynecological information that you have  
6   about Ms. Varner?

7           A.       No. No.

8           Q.       Did anyone witness any of these sexual liaisons?

9           A.       No.

10          Q.       Did anyone come upon the two of you after you had  
11   had a sexual liaison?

12          A.       No.

13          Q.       No one ever discovered this?

14          A.       Somebody -- I mean, on occasion there were people  
15   that had come up, where we were in the act in the car and  
16   they had come up without us noticing them. But no one had  
17   ever interrupted us or stopped us or seen us. I mean, it  
18   just scared the daylights out of us.

19          Q.       And where did that occur? What location?

20          A.       Down at the Goldsboro location, near the railroad  
21   tracks.

22          Q.       Was that a frequent site of your sexual  
23   encounters?

24          A.       Yes, it was, ma'am.

25          Q.       How many times did you have sex in or near

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1 Goldsboro?

2 A. Frequently. I mean --

3 Q. More than five?

4 A. Two or three times a month. It would depend -- I  
5 mean, it would depend. I mean, if it was a -- I mean, I  
6 remember when it rained she would call me, you know, and  
7 usually in the middle of the week we had sex. I mean, there  
8 was a lot of Wednesdays.

9 Q. What was it about Wednesdays?

10 A. There wasn't Juvenile court on Thursday, there  
11 wasn't Adult court on Tuesday, things like that. I mean,  
12 there was -- it's kind of, like, a middle-of-week day.

13 Q. A couple times of month in Goldsboro, a few of  
14 those times somebody would come upon you?

15 A. No. Only one time a guy got behind us and he  
16 beeped the horn. That was it.

17 I remember one occasion I was up in Roxbury and I  
18 think another Probation officer named Mike Dunsmore had seen  
19 us in the car, and he came back and confronted me about it.

20 Q. What had he seen? Just the two of you in the  
21 car?

22 A. Just the two of us. But he didn't have an  
23 identity of who the other -- who Barb was. And he said, that  
24 was Barb Varner in with you, what were you doing up in  
25 Roxbury.

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1 Q. And what did you say?

2 A. I said we were supervising.

3 Q. Is that true?

4 MR. MacMAIN: Is what true, that he was  
5 supervising?

6 MS. WALLET: Yes.

7 MR. MacMAIN: Or did Mike Dunmore --

8 MS. WALLET: No. That you were supervising.

9 THE WITNESS: Yes. We had a case and it was an  
10 adult case so it's not protected under confidentiality. It  
11 was a guy named Steve Wilson, and she had his wife or his  
12 girlfriend, some Naylor girl. I'll just say Naylor, Kathy  
13 Naylor. And again, she was, like, slow --

14 MR. MacMAIN: She didn't ask you about the case.  
15 Just --

16 THE WITNESS: Okay, okay. And we had seen that  
17 case and then gone on up to Roxbury over the lunch hour.

18 BY MS. WALLET:

19 Q. And you had sex in the car?

20 A. No. We fondled and kissed each other up there on  
21 the other side of the mountain at Roxbury.

22 Q. When did you tell your wife of this liaison with  
23 Ms. Varner?

24 A. The day after I talked to Judge Sheely.

25 Q. So you went to Judge Sheely, told him that you

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1 had had a sexual relationship with Barb Varner and didn't  
2 tell your wife till the next day?

3 A. No. Hank Thielemann had come down to my office  
4 and said, Gary, this county has been upstairs, David Deluce  
5 has been up there, Horace Johnson was up there, Ward was up  
6 there and Hartnett was up there and they were all basically  
7 gunning to have my job over this sexual harassment  
8 investigation that they had done. Hank said that Judge  
9 Sheely's going to end up -- he's going to transfer you, Gary.  
10 He said, you're going to the prison.

11 Q. How did he know that?

12 A. I don't know. I think -- I don't really know. I  
13 think -- and he said, you better get upstairs, you know. He  
14 said, you know, it's time for you to -- I mean, he just said  
15 something in that regard. I don't know his exact words. But  
16 I said, I'm going to take care of this, and I went upstairs.

17 Q. So the reason you went to Judge Sheely was at the  
18 suggestion of Hank Thielemann?

19 A. No. He just -- he said that you're going to be  
20 losing your job, that's what the rumor is, and you better,  
21 you know, you better go upstairs or you better talk to Judge  
22 Sheely.

23 Q. And you thought that was a good idea?

24 A. Yes.

25 Q. Okay. So, what did you do?



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1 A. I went up to see Judge Sheely. I went --

2 Q. Did you call him, ask for time?

3 A. No. I went up to see him. Asked the secretary,  
4 I guess Sandy, if I could speak with the judge.

5 Q. What happened?

6 A. And I said, you know, Judge Sheely, there's  
7 concerns that you're going to transfer me or put me over in  
8 Adult Probation, and I said, I'm here to tell you that I did  
9 not sexually harass Barbara Varner, I'm here to tell you that  
10 I had an extramarital affair with this woman. And I broke  
11 down. My wife was not there. There was nobody there but me.

12 Q. What did you tell Judge Sheely about this affair  
13 at that time?

14 A. I told him I had an extramarital affair with this  
15 lady and the county was not responsible for her claims of  
16 sexual harassment. It was I was involved with her on a  
17 consensual relationship, infidel relationship.

18 Q. When do you mean the county was not responsible?

19 A. There was no basis to her claims.

20 Q. What did Judge Sheely say?

21 A. He said, have you told your wife? And I said no.  
22 And I said, but I'm going to. So the next day I think I went  
23 in with Dave Foster.

24 MR. MacMAIN: She just asked you about the  
25 conversation with Judge Sheely.

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1 THE WITNESS: Okay. And then I went home and  
2 told my wife.

3 BY MS. WALLET:

4 Q. What did Judge Sheely say to you that ended that  
5 conversation?

6 A. He said, I'm glad you came to me.

7 Q. Do you need a break?

8 A. No. I'll just be all right. He said, I'm glad  
9 you came to me, I'm going to put this matter to rest. He  
10 said, I'm going to call her up, meaning Barb Varner, and I'm  
11 going to put you out on the street for your bad language.

12 Q. Was there anyone else present at that meeting?

13 A. I don't think so. I am a little confused whether  
14 Dave Foster walked in with me. I'm confused whether he was  
15 there or not at the time. I'm not sure.

16 Q. Well, do you remember Mr. Foster being there with  
17 you with Judge Sheely on more than one occasion?

18 A. I think on one occasion, and not the second  
19 occasion, or, you know, on the second occasion, not the first  
20 occasion. But I'm not -- I don't know that to be in stone.  
21 I don't know. I can't remember exactly.

22 Q. So you see Judge Sheely, you tell him you had  
23 this relationship with Ms. Varner. He suggests you tell your  
24 wife. Did he suggest that you tell your wife?

25 A. No.

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1 Q. He asked you if you had told your wife?

2 A. Correct.

3 Q. And you said you were going to?

4 A. Correct.

5 Q. Okay. The conversation ends, he's going to put  
6 this to rest. Anything else --

7 A. He said he's going to take care of this.

8 Q. Is there anything else about that meeting that  
9 you remember?

10 A. No. I didn't even know -- I didn't even know he  
11 had called her up, I mean, till later. He just later, you  
12 know, I mean, down the road I guess he made some -- that  
13 document that he performed, you know, I mean, he come up with  
14 that.

15 MR. MacMAIN: Gary, she just asked you about your  
16 conversation.

17 THE WITNESS: That was it.

18 MR. MacMAIN: Hold on. She's not asking what  
19 other people may have said or other people may have done.  
20 Simply your conversation with Judge Sheely the first time.

21 MS. WALLET: Right.

22 THE WITNESS: That was it.

23 BY MS. WALLET:

24 Q. Is there anything else about that conversation,  
25 either what you said or what he said, that you remember now?

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1 A. That's it.

2 Q. All right. So you go home, tell your wife.

3 A. Right.

4 Q. What do you tell your wife?

5 A. That I was involved in a -- she asked me on the  
6 way home, she said, now -- no. The next day I told my wife,  
7 because I went home that night and didn't tell her. And the  
8 next day at noon I told her.

9 Q. Okay. Why did you pick the next day at noon to  
10 tell your wife?

11 A. I think I talked to David Foster and he said,  
12 Gary, he said, that's a long relationship -- well, you know,  
13 don't tell details. I mean, that's all he said, just don't  
14 tell her details, it will hurt her.

15 Q. Did you talk to Foster immediately after you met  
16 with Judge Sheely --

17 A. I think so.

18 Q. -- or the next day?

19 A. I think so, right after I talked to Judge Sheely.  
20 And I don't know whether it was in person or on the phone.

21 Q. Do you know what time of day your meeting the  
22 first time with Judge Sheely was?

23 A. Probably middle of the day. I don't know. I  
24 can't remember.

25 Q. Before or after lunch?

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1 A. Before lunch.

2 Q. Did you go back to work?

3 A. I don't know. I can't tell you.

4 Q. You don't remember?

5 A. I don't remember.

6 Q. Did you and your wife customarily drive back and  
7 forth to the courthouse together?

8 A. No. We drove separately.

9 Q. Always?

10 A. 99 percent of the times we drove separately.

11 Q. Why was that?

12 A. Well, because she had different duties than I  
13 did, and I had supervision duties. I would go out and  
14 supervise, so she wouldn't have a car, and if she wanted to  
15 go home for lunch she would not have a vehicle.

16 Q. Okay. So you went home that night, didn't tell  
17 your wife anything.

18 A. Correct.

19 Q. Did she know at that time that there was some  
20 possibility that you would be disciplined as a result of the  
21 complaints made by Ms. Varner?

22 A. She didn't know a thing. I think the next day  
23 since I had told Judge Sheely I was going home to tell her  
24 and I hadn't told her, you know, he ran into her somewhere, I  
25 don't know, you know, being the elevator or in the office,

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1 but he had said, you know, did Gary talk to you, or  
2 something, I think. You'll have to ask him what he said.  
3 But he -- I think he said, did Gary talk to you, and he said,  
4 do you think Gary had an affair.

5 And that next day we got in the car to go home  
6 for lunch, and I didn't even get out of the parking lot when  
7 she looked at me and said, did you have an affair with this  
8 woman, is that why you're in this mess. And I said, yes, I  
9 did. And then we went home. I remember sitting on the patio  
10 and confessing.

11 Q. Okay. What prompted you to be going home for  
12 lunch with your wife on this day?

13 A. I don't know. I had gone home for lunch on  
14 occasion with her. I might have exaggerated my 99 percent,  
15 but most often we drove separately, and even though we drove  
16 separately we still went home to lunch together.

17 Q. So is it your testimony that it was actually  
18 Judge Sheely who told your wife?

19 A. No. I told my wife. He didn't say anything to  
20 her. He said, could he have had an affair with this woman to  
21 make her file these complaints. So he was seeing if I told  
22 her the night before. That was his way of expressing  
23 himself.

24 Q. And that was the first notice she had about any  
25 affair, when Judge Sheely asked her about it?

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1           A.       He made a generalized comment, as I remember, and  
2       said that do you think Gary could have been having an affair  
3       with this woman or have you considered that, Barb.

4                    She got in the car, we went home, and before we  
5       got out of the parking lot, bang, that was it.

6           Q.       What did she say to you?

7                    MR. MacMAIN: You mean in the car other than what  
8       he's just told you?

9       BY MS. WALLET:

10          Q.       Yes, in the car.

11          A.       How could you.

12          Q.       And what did you say to her?

13          A.       I said I was sorry.

14          Q.       Did she ask you for details of this relationship?

15          A.       I think I told her what Dave Foster said to me,  
16       not to discuss details, it would just hurt her further.

17          Q.       Have you at any time since told her the details?

18          A.       Yes, she knows most of the details. She doesn't  
19       know the anal sex part of the details.

20          Q.       Is that because you told her?

21          A.       Yes.

22          Q.       Did she get any information about this  
23       relationship from anyone else, to the best of your knowledge?

24          A.       No one.

25          Q.       Now, did you meet with Mr. Foster at the

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1 workplace the day after you told Judge Sheely of this affair?

2 A. I'm not clear on those details. I mean, I might  
3 have called Dave Foster and said, you know --

4 MR. MacMAIN: Gary, hold on a second. Mr. Foster  
5 is an attorney. Whatever he and you discussed would be  
6 privileged, so she's not asking you what Mr. Foster said or  
7 you said. All she asked is whether or not you met with him.

8 THE WITNESS: I met with him, I'm pretty sure. I  
9 mean, I know I met with him, but I don't know the sequence.

10 BY MS. WALLET:

11 Q. You heard the testimony yesterday or the day  
12 before where Ms. Varner said that you met with Mr. Foster and  
13 your wife behind closed doors for a period of time?

14 A. That's totally incorrect. Well, met behind  
15 closed doors or met with Judge Sheely? I mean, there was --  
16 where are you referencing behind closed doors?

17 Q. My question is: Did you meet with Mr. Foster at  
18 the workplace before you went to see Judge Sheely the second  
19 time?

20 A. Yes.

21 Q. You called him and asked to meet with him,  
22 correct?

23 A. As I remember, right.

24 Q. Now, did you intend when you called him that you  
25 were going to take him with you to see Judge Sheely?



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1 MR. THOMAS: Him? I'm sorry? Take him? Meaning  
2 Mr. Foster?

3 MS. WALLET: Correct.

4 MR. THOMAS: Okay.

5 THE WITNESS: I think he volunteered to be -- to  
6 go up with me. I don't think I took him by design, I think  
7 he just said, do you want me to go up with you.

8 BY MS. WALLET:

9 Q. Okay. And who was present at this second meeting  
10 with Judge Sheely?

11 A. Just myself and Dave Foster and Judge Sheely.

12 Q. Your wife was not there?

13 A. That's incorrect. She was not there.

14 Q. And what was the purpose of this second meeting  
15 with Judge Sheely?

16 A. I'm trying to make sure I have the sequence  
17 correct, Ms. Wallet. I'm not -- I want to amend the record  
18 to reflect I'm not sure what day David Foster went up with  
19 me. Either it was the first day or the second day. He might  
20 have gone in with me to Judge Sheely the first day when I  
21 confessed the affair, instead of the second day. But I don't  
22 remember my wife being in on that meeting at all on the first  
23 occasion I saw Judge Sheely.

24 Q. Okay. Were you with your wife at any meeting  
25 with Judge Sheely?

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1           A.       No, not that I remember. I went in with Dave  
2 Foster. I don't think I went in with Barb the next day. I  
3 don't think my wife Barb was included in that meeting. She  
4 could have been, I'm not sure. That was a traumatic time. I  
5 can't recall that.

6           Q.       My question was: What was the purpose of this  
7 second meeting with Judge Sheely?

8           A.       I don't know. I mean, I don't know what -- I  
9 don't even -- maybe there wasn't even a second meeting, maybe  
10 I'm running them together. I just don't -- I don't know.  
11 I'm confused on that topic, Ms. Wallet, I don't know.  
12 Because I thought I originally told my wife, and then I  
13 checked with her last night and she said, no, you didn't tell  
14 me the first day that I think you and David went in there,  
15 you told me the next day, because Judge Sheely come up to me  
16 and said do you think he could have been having an affair.  
17 And then she said, I questioned you in the car on the ride  
18 home. And she said, I remember her saying it was Lainey's  
19 birthday. I mean, what a time to remember. That's her  
20 cousin.

21                   As far as the second day, maybe I'm running the  
22 two days together. Maybe there was only one contact with  
23 Judge Sheely. I was thinking I went in myself and then Dave  
24 Foster later, but -- and I'm not trying to confuse the  
25 record, I'm just -- poor Emily. I don't -- maybe there was

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1 only one meeting with Judge Sheely and then -- I don't know  
2 if I had the second meeting. I just do not recall. I'm  
3 confused.

4 Q. Well, do you remember Judge Sheely telling you  
5 anything other than: I'm going to put you on the street for  
6 your bad language?

7 A. No, he didn't say a thing. He didn't say what  
8 type of disposition he was going to make. He said, I'm going  
9 to take care of this matter, and that was it.

10 Q. Did he ask you anything about the specific  
11 allegations by Ms. Varner of sexual harassment?

12 A. Not after I told him I had a consensual affair  
13 with her, no, not that I recall.

14 Q. So after you said you had a consensual affair,  
15 your recollection is Judge Sheely said: I'm going to take  
16 care of this matter?

17 A. Yes, ma'am. And he didn't say anything further.

18 Q. How did you learn that you did get three days on  
19 the street?

20 A. He put it in a document and sent it down to, I  
21 guess Joe.

22 Q. And the original days that you were going to be  
23 suspended were changed, correct?

24 A. Yes.

25 Q. Why were they changed?

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1           A.       I don't know. I don't know. I don't have any  
2    idea.

3           Q.       You don't remember why there was a change in the  
4    days of your suspension?

5                   MR. MacMAIN: He just said he doesn't.

6                   THE WITNESS: I don't. I don't remember why.

7   BY MS. WALLET:

8           Q.       Had you previously received any disciplinary  
9    action while you worked for the county?

10          A.       No.

11          Q.       How about for the courts?

12          A.       No.

13          Q.       So this three-day suspension was the first  
14   disciplinary action you had ever suffered?

15          A.       Yes, ma'am.

16          Q.       Did you believe that you had been disciplined in  
17   any other way as a result of the allegations of Ms. Varner  
18   other than the three-day suspension?

19          A.       Did I? I'm sorry, you'll have to repeat that.

20                   MS. WALLET: Let's take a short break. Let's  
21   talk about what our plan is for today.

22                   (Recess taken from 2:21 until 2:24 p.m.)

23   BY MS. WALLET:

24          Q.       After you met with Judge Sheely and he said he  
25   would take care of it, did you think that this matter was

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1 over?

2 A. No.

3 Q. What did you think would happen after that?

4 A. I didn't know what was going to happen.

5 Q. When was the first time after you had the meeting  
6 with Judge Sheely that someone spoke to you about  
7 Ms. Varner's complaints?

8 A. The first time that somebody spoke to me about  
9 Ms. Varner's complaint after talking with Judge Sheely, I  
10 don't know. I don't know if anybody spoke to me about it.

11 Q. Do you know whether someone spoke to you before  
12 you learned that you had been named as a defendant in the  
13 federal court suit?

14 A. I think the formal notice that I received was  
15 from your office asking me to acknowledge your federal  
16 lawsuit, and I didn't ever send you an acknowledgment of your  
17 notice because I didn't want to --

18 Q. Okay. So you think between the time you met with  
19 Judge Sheely and when you received the federal Complaint, no  
20 one spoke to you about Ms. Varner's allegations?

21 A. No.

22 Q. No, you don't think so? Or no, no one did?

23 A. No, no one spoke to me about anything further.

24 Q. Were you angry at being sent to the prison?

25 A. No. Furious.

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1 Q. And what, if anything, did you do to express your  
2 anger and furiousness?

3 A. There was nothing I could do.

4 Q. Did you complain to anyone in the supervisory  
5 chain?

6 A. No. It was a decision by Judge Hoffer.

7 Q. Did you express displeasure to Judge Hoffer at  
8 his action?

9 A. The day that he -- it was a Monday. It was  
10 more -- he called me into his office said that I'm  
11 transferring you to the Adult Probation office. I was there  
12 less than three minutes. I implored him to let me speak and  
13 to the events that have happened over the last couple years,  
14 and I asked him not to put me in Adult Probation and put me  
15 down in -- he said, you're going down, you're going to be  
16 transferred to the Adult Probation office, go clean out your  
17 desk, take the rest of the day off and report to John Roller  
18 the next day.

19 I said, would you please let me explain the  
20 circumstances around the last year and a half, and he said  
21 no. And he said -- I said, can you give me a reason why I'm  
22 being transferred, and he said, I've lost confidence in you.

23 Prior to that week --

24 MR. MacMAIN: Gary, just answer her question. If  
25 she wants more, she'll ask you for more.

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1 BY MS. WALLET:

2 Q. Do you remember anything else about what you said  
3 or what Judge Hoffer said at that time?

4 A. I just remember -- I didn't make any comments but  
5 I remember feeling that he treated me like a dog, where I had  
6 to sit in front of him and I couldn't speak and I couldn't  
7 give an explanation as to my frustration in defending these  
8 accusations.

9 Q. Did he tell you at that time that your transfer  
10 to Adult Probation had anything to do with the allegations  
11 that were made by Ms. Varner?

12 A. No.

13 Q. Did you believe that they were related to the  
14 allegations that Ms. Varner made?

15 A. Did I believe? Sure, I believed that.

16 Q. Why did you believe that?

17 A. I didn't know what other reason he would transfer  
18 me.

19 Q. Did you tell anybody that day that you had been  
20 transferred?

21 A. I think so.

22 Q. Who did you tell?

23 A. I walked in the Probation office. Denny Drachbar  
24 caught me at the first counter and was giving me a raft of  
25 baloney over being upstairs talking to Hoffer about, you

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1 know, why are we having staff meetings now again. And I just  
2 said, well, you won't have to worry about that, you won't  
3 have to be bugging me about it because I've been sent to the  
4 prison or, yeah, sent to the prison.

5 Q. Did you tell anybody else?

6 A. I think I told Joe.

7 Q. What did you tell Joe?

8 A. I think Tom Boyer was in his office. I said,  
9 I've just been terminated and I've been terminated from my  
10 position and I'm to report to John Roller tomorrow morning.

11 Q. Did you use the F word?

12 A. I don't think so.

13 Q. Anybody else at that little gathering use the F  
14 word?

15 MR. MacMAIN: Objection as to form, that little  
16 gathering.

17 BY MS. WALLET:

18 Q. Just my reference to Joe and Tom Boyer.

19 A. Joe and Boyer being in Joe's office.

20 Q. Yes.

21 A. No, I didn't use the F word.

22 Q. My question was: Did anyone else use the F word?

23 A. No. No, they didn't. They were as shocked as I  
24 was.

25 Q. Were you angry at that time?



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1 A. I was numb at that time.

2 Q. Did you tell anybody at that time or shortly  
3 thereafter that there would be punishment for those who sided  
4 with Ms. Varner?

5 A. No. That's not true.

6 Q. You never said that?

7 A. I never said that.

8 Q. Never said something like: I'll get even?

9 A. I said, this isn't right. I said, I worked 22  
10 years advancing good will in this office, to be dismissed in  
11 three minutes with not even being able to utter a word, yes,  
12 I was angry.

13 I had just gone through my mother's death on  
14 January 4th, and less than 40 days later he was taking my job  
15 away. So I was pretty emotionally numb to this.

16 Q. Have you threatened anyone who may be a witness  
17 in this case?

18 A. Not at all.

19 Q. Did you call any other individual within the  
20 Probation Department disloyal to you?

21 A. No.

22 Q. Have you talked to any potential witnesses in  
23 this case about this case?

24 A. No one will talk to me, ma'am.

25 Q. You haven't talked to Hank Thielemann?

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1 A. No.

2 Q. You haven't talked to Hank Thielemann about the  
3 Penn State conference?

4 A. No.

5 Q. Have you talked to Tom Boyer?

6 A. No.

7 Q. Have you had Mr. Osenkarski talk to these people  
8 on your behalf?

9 A. No.

10 Q. Have you asked anybody that you think might be a  
11 witness in this case what they are going to say about the  
12 circumstances of the case?

13 A. No.

14 Q. You haven't talked to anybody at the Probation  
15 office about this case?

16 A. I said I was falsely accused.

17 Q. Who did you tell that to?

18 A. Probably a number of people. John Roller. Lyle  
19 Herr. Mike Varner. Heime Rivera. Charles McKenrick.

20 Q. Is there a difference in the weapons policy  
21 between Juvenile Probation and Adult Probation?

22 A. Yes, there is.

23 Q. What is the difference?

24 A. I think Adult officers are allowed to carry a  
25 firearm if they complete firearm training that the state

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1 provides.

2 Q. Do you have any interest in doing that?

3 A. Not at all.

4 Q. Did anyone tell you that you would not be  
5 permitted to carry a firearm as part of your duties and  
6 responsibilities in Adult Probation?

7 A. No, not at all. In fact, Mike Varner had given  
8 me an application saying that if I had any interest, you  
9 know, I could sign up for being equipped with a weapon and  
10 training.

11 Q. Let's talk about the Atlantic City trip.

12 A. Okay.

13 Q. Was this trip, in your opinion, planned with  
14 Ms. Varner in advance of the day of the trip?

15 A. Yes, it was.

16 Q. Tell me how it was planned.

17 A. We had talked about having, like, a day that we  
18 could escape when her husband was away. She testified that  
19 he wasn't -- he was home when she went on that trip. He  
20 wasn't, he was away, is what she told me, so -- and I suspect  
21 that you can get his travel record to find that he was away  
22 on this date.

23 What do you want know about it? I bought the  
24 tickets at the Personal Tees booth in the MJ Mall.

25 Q. Did you buy one or two tickets?

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- 1           A.       Two tickets.
- 2           Q.       Charge them or pay cash?
- 3           A.       Cash.
- 4           Q.       Did you buy a ticket specifically for Barbara
- 5 Varner?
- 6           A.       Yes, I did.
- 7           Q.       What was the plan?
- 8           A.       The plan was to go down, my -- under the guise of
- 9 me going to see my sister, and her going because her husband
- 10 was out of town for that day.
- 11          Q.       Why did you get on at separate stops?
- 12          A.       Because there was a Carlisle stop, a Camp Hill
- 13 stop, and a Harrisburg stop. We both drove down. I drove to
- 14 Camp Hill so that my car would not be, you know, in Carlisle.
- 15 And I -- we both got on at the Bon-Ton beside the Capital
- 16 City Mall, the parking lot behind Burger King. I don't know
- 17 what the address is there, but that was the bus pickup. And
- 18 we both --
- 19          Q.       So your testimony is you got on at the same stop?
- 20          A.       Absolutely.
- 21          Q.       And you got on at the Bon-Ton stop?
- 22          A.       Yes, I did. We both parked our cars there.
- 23          Q.       And when you got onto the bus, did you
- 24 immediately sit together?
- 25          A.       Yes, we did.

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1 Q. Where did you sit on the bus?

2 A. Back of the bus.

3 Q. Very back?

4 A. I think we moved back there. But we sat in near  
5 the back, within three seats of the back of the bus. Yes.

6 Q. Anybody on the bus that you knew?

7 A. Not at the time we got on it, but when the bus  
8 stopped in Harrisburg, Barb jumped up and said, oh, my God,  
9 there's Carol Shearer, or Carol Snoke. And it was a  
10 secretary that she had worked with at Children and Youth.  
11 And her husband-to-be, Wayne Shearer.

12 Q. Okay. Did she move her seat?

13 A. She jumped up and we separated seats and we  
14 pretended that we were just on the bus separately.

15 Q. And then eventually did you sit together?

16 A. Yeah. We sat together going down. I think the  
17 bus was full, so I think -- and then we sat together going  
18 down and we sat together coming home.

19 Q. Did you know anybody else on the bus?

20 A. No, ma'am.

21 MR. MacMAIN: You mean other than the people he's  
22 mentioned?

23 MS. WALLET: The people that were identified.  
24 Anyone else meant somebody in addition.

25 BY MS. WALLET:

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1 Q. Okay. What did you do when you got to Atlantic  
2 City?

3 A. Went to -- we didn't get off at different stops.  
4 I think she testified yesterday we got off at different  
5 stops. I don't even remember the bus having a different  
6 stop.

7 She is correct with the, I think we got \$15 in  
8 coin to spend. And Ms. Varner's testimony is correct that I  
9 called my sister.

10 I then purchased a room with cash funds at the  
11 Bally's resort, and it's now the Hilton. They've changed  
12 names from when I registered for the room. We went to --

13 Q. Did you register in your own name?

14 A. You know, it's interesting. I don't know. I  
15 might have used Stewart. I might have used Stewart Graham,  
16 or just a single initial. I paid cash, though.

17 And we went to a room on the fifth floor  
18 overlooking the air conditioners. We engaged in oral and  
19 vaginal sex there for the afternoon. We got a shower  
20 together, a bath together. We went down and ate at the  
21 buffet restaurant. I don't think we set foot on the beach  
22 that whole day. So that directly conflicts with what she  
23 testified to.

24 Q. Okay. Did you do anything else that day that you  
25 remember?

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1           A.       No. We just went, spent the day in the room. I  
2     remember talking about, I don't know how this happened, but  
3     we -- she was talking about her dad, I think, and my dad, and  
4     we got to talking about, like, war stories, or World War II  
5     or something. I mean, we got to talking about something like  
6     that, of all things, when we were intimate together and  
7     spending time, we were talking about that.

8                   MR. THOMAS: Someone's ringing.

9                   (Discussion held off the record.)

10    BY MS. WALLET:

11           Q.       I don't remember whether we were in mid question  
12    or mid answer.

13                   MR. MacMAIN: You had answered.

14                   MR. THOMAS: We were mid answer.

15                   THE WITNESS: So we had spent the afternoon -- we  
16    got there at 11 o'clock and we left there around five  
17    o'clock. We had sex in the room after I registered. And  
18    then we went down to the buffet and ate.

19    BY MS. WALLET:

20           Q.       Okay. Why didn't you just drive to Atlantic  
21    City?

22           A.       Probably because I would have to give my wife an  
23    explanation why I was going there.

24           Q.       What explanation did you give your wife for going  
25    on the bus?

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1 A. I said I was just going to go down for the day.

2 Q. When you paid cash for this room, do you remember  
3 how much it cost?

4 A. 50-some dollars. It was a -- yes, it was a  
5 midweek type of deal, I think.

6 Q. How did you explain these cash expenditures to  
7 your wife?

8 A. I didn't.

9 Q. Did you do anything else in Atlantic City  
10 together?

11 MR. MacMAIN: Other than what you've already told  
12 her.

13 THE WITNESS: Nothing.

14 BY MS. WALLET:

15 Q. How many times have you had dinner with  
16 Ms. Varner at the Deer Lodge?

17 A. On a couple occasions, maybe two.

18 Q. Alone?

19 A. Three. Yes.

20 Q. Just the two of you?

21 A. Yes.

22 Q. And do you remember any work-related reason for  
23 why you may have stopped at the Deer Lodge?

24 A. Well, we wanted to get a good place to eat at the  
25 end of an institutional trip, so we would come back the whole



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1 way to Carlisle to eat at a good place.

2 Q. And who suggested the Deer Lodge?

3 A. Well, she had been there with her husband, she  
4 had, you know, on a weekend. And then I think they had just  
5 opened a new deck. And she and her husband were up, and we,  
6 me and my wife were out there. My wife and I were out there  
7 one night. And we made introductions.

8 Q. Do you agree that you went to the Deer Lodge on a  
9 day that you had been on a business trip?

10 A. I think so, yeah.

11 Q. Both times?

12 A. Probably.

13 Q. Did you consider these dates?

14 A. Oh, no. No. That was -- it was a county policy  
15 that allowed if you were outside the area after the dinner  
16 hour you were allowed to put reimbursement in for a meal,  
17 which generally meant around five o'clock or something, if  
18 you were outside of town and weren't home after a business  
19 trip.

20 Q. So if you came home from a business trip and you  
21 went right to your car and went home, you didn't get a meal  
22 allowance, correct?

23 A. They gave you a meal allowance if -- yes, because  
24 you could take a meal home with you. If you chose at that,  
25 at the end of that trip not to go somewhere, you could do

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1 what Ms. Varner did and Ms. Green did, went to a restaurant,  
2 buy a meal, take it home and end your day earlier than you  
3 would just eat, you know, the last hour on the county  
4 overtime.

5 Q. Could you get paid for the hour of your meal if  
6 you took a meal at the end of your trip?

7 A. Yes, you do.

8 Q. That was the whole reason to do it, right? The  
9 county paid the meal and you got an extra hour of wage?

10 A. You'd have to ask Joe or Ken Bolze on that, on  
11 reimbursement. I don't know if they took away from your  
12 overtime or just paid your regular pay at that time. I  
13 don't -- they might have only paid you regular pay for that  
14 hour instead of overtime pay. I'm not sure.

15 Q. Well, was there an advantage to eating and  
16 getting a receipt for food at the end of a business trip at  
17 the end of the business day?

18 A. Sure.

19 Q. What was the advantage?

20 A. The advantage is to get reimbursed for the meal  
21 you ate.

22 Q. Anything else?

23 A. And probably add that to the amount of total time  
24 that you spent delivering the juvenile.

25 Q. Okay. How many times did you meet Barbara Varner

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1 for what you considered to be a date at the Silver Springs  
2 flea market?

3 A. Multiple Sunday mornings. And as far as number,  
4 probably during the whole summer season, you know, seasons,  
5 you know, she said --

6 Q. Every Sunday?

7 A. A good bit of Sundays. Not every Sunday.  
8 Every -- three Sundays out of a month, maybe. Sometimes two  
9 Sundays out of a month.

10 Q. Okay. Always on Sunday?

11 A. Yes. Sunday morning.

12 Q. And what did you tell your wife about where you  
13 went on Sunday morning?

14 A. I still go to the flea market on Sunday mornings,  
15 and I still do that. So I just told her I was going to the  
16 flea market.

17 Q. Did she ever ask to come with you?

18 A. She -- no. She doesn't care to do that.

19 Q. Did you go to the flea market before you began to  
20 meet Ms. Varner?

21 A. Yes.

22 Q. So this was a rather regular routine for you; you  
23 liked to go to the Silver Springs flea market and you've done  
24 that for many years?

25 A. I've done it for a number of years. Probably

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1    what, I was -- most of my motivation at that juncture was to  
2    go and meet with her, because that provided a facility and a  
3    time frame that we could meet.

4           Q.       Did you have sex during or after any of those  
5    flea market meetings?

6           A.       Yes, we did.

7           Q.       Where would you have sex?

8           A.       Up on the top of, I think it was on McClure's  
9    Gap, but it was out in back of on 944 on back of Visaggio's  
10   there's a road that goes up over the top of the mountain. I  
11   can't think of what gap it's called. There's a number of  
12   different gaps there. We'd drive my vehicle up to the top of  
13   the mountain and have sex in my car.

14          Q.       So she would come in her vehicle, you would come  
15   in your vehicle.

16          A.       Right.

17          Q.       Then what happened?

18          A.       Then we would leave, go have sex at the top of  
19   the mountain.

20          Q.       And then return to the flea market?

21          A.       Yes, ma'am.

22          Q.       How long did all of this take?

23          A.       Well, we would usually be there around 7:00 and  
24   we were usually home by 10:30, 11 o'clock.

25                    She told me her husband, she was repulsed at her

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1 husband golfing every Sunday morning, and that was I guess  
2 her way of retaliating.

3 Q. Did she ever meet any of her children --

4 A. Sure. I met her children there.

5 Q. How many times did you meet her children?

6 A. A couple times.

7 Q. More than five?

8 A. I advocated for her son to get hired at Schaffner  
9 Youth Center.

10 Q. That's not responsive to my question.

11 A. Okay. More than five.

12 Q. Did you meet more than five?

13 A. Probably less than five.

14 Q. And were they occasions when you met both her son  
15 and her daughter on the same day? Or you met different  
16 children on different days?

17 A. Different children on different days. I think  
18 her daughter was in college. She was only there, you know,  
19 just if she was visiting on a weekend. She would mostly go  
20 alone.

21 Q. Were there times when Ms. Varner would have the  
22 grandchild?

23 A. I don't think ever, that I remember. I think the  
24 grandchild was picked up after our activities had ceased and  
25 she picked him up on the way home.

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1 Q. When you say after your activities had ceased,  
2 meaning after 11 o'clock or 11:30?

3 A. Yes, ma'am.

4 Q. Not after in months of time?

5 A. No. After we had concluded having our sex at the  
6 top of the mountain.

7 Q. Anybody see you at the Silver Springs flea market  
8 with her?

9 A. Yes. Becky Over. I don't know what her married  
10 name is. She provided that yesterday.

11 Her son saw us there. Jeanie, her son's wife,  
12 saw us there.

13 Her son I think purchased some baseball gloves  
14 for me. I was hunting some extra baseball gloves and he  
15 ended up, I think he got baseball gloves for me.

16 Q. Did Ms. Over observe any activity between the two  
17 of you that would suggest a romantic relationship?

18 A. No.

19 Q. Anybody that you know see you at the Silver  
20 Springs flea market engaging in any conduct which would be  
21 considered, which someone might consider to be a romantic  
22 conduct?

23 A. No.

24 MR. MacMAIN: Objection as to what someone might  
25 believe that they saw.

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1 BY MS. WALLET:

2 Q. Something like holding hands or kissing?

3 A. No, none of that.

4 Q. Is it your testimony, sir, you were very discreet  
5 about not allowing anyone to see the two of you together?

6 A. I don't think we were -- no, we didn't make any  
7 extra steps during those flea market days to, I mean, during  
8 the flea market activities to be real discreet. We didn't  
9 walk around totally together, because once we saw each other  
10 and once we hooked up, then we took off and went up to the  
11 top of the mountain.

12 Q. Are you aware of any witnesses, sir, on any of  
13 these occasions when you were with Ms. Varner who observed  
14 conduct that would be suggestive of a romantic relationship?

15 MR. MacMAIN: Same objection as before. Be  
16 specific. I'm not sure what someone's --

17 BY MS. WALLET:

18 Q. Such as kissing, holding hands, arm in arm?

19 A. I think we were pretty discreet in most of our --  
20 in concealing our infidelity. That's how I can answer that.  
21 I don't...

22 Q. Is it your testimony that you had sex with  
23 Ms. Varner at your father's store?

24 A. No. I was -- I'll let you ask.

25 Q. Ms. Varner was asked about whether or not she was

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1 in your father's store. Do you know why she was asked that  
2 question?

3 MR. MacMAIN: Objection --

4 THE WITNESS: Yes.

5 MR. MacMAIN: -- but you can ask him whether or  
6 not she was ever at his father's store.

7 THE WITNESS: She was at my father's store. I  
8 had been repairing an apartment above my dad's store and  
9 during the early interludes that we would meet, she came up  
10 there. That was early, early in the relationship, between  
11 '90 and '92, it was early, because my dad was still living  
12 there. He died in '91, so. And she had come up to the  
13 apartment while I was working on it, in the evening, and we  
14 kissed and fondled one another upstairs in the apartment.

15 BY MS. WALLET:

16 Q. And this apartment is directly upstairs from the  
17 store?

18 A. Well, my dad had a store -- we owned the entire  
19 corner building. And there was a store and then what was to  
20 be a video shop beside it, and the apartment was directly  
21 above it. So, it was four units there, two storerooms  
22 downstairs and two apartments upstairs.

23 Q. Could you access the apartment from the store?

24 A. No.

25 Q. Were you concerned that your father would see you



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1 there with another woman?

2 A. Somebody did see us there. The boy that ran our  
3 store was name of Kenny Newell, N-E-W-E-L-L. And Ms. Varner  
4 and I were up there an extensive period of time, being it  
5 possibly an hour and a half, and she was there under the  
6 guise that she was looking for an apartment maybe for her  
7 daughter. And she was coming -- and her position was that if  
8 somebody asked, you know. And when we went down the back  
9 steps, not the front steps but the back steps, Kenny Newell  
10 was just locking the stock room and he looked up and saw us  
11 coming down.

12 Q. What did you tell Mr. Newell?

13 A. I didn't say a thing to him. I later said to him  
14 that that was a woman looking for an apartment for her  
15 daughter.

16 Q. Okay. Again, I ask you, you weren't concerned  
17 about your father seeing you with another woman there?

18 A. My father wasn't there at the time.

19 Q. Is that the only occasion when Ms. Varner was in  
20 the apartment above your father's store?

21 A. Yes, ma'am.

22 MR. MacMAIN: Debra, I would note it's just about  
23 three o'clock. I don't know if you're done this area or if  
24 this is a good break point.

25 MS. WALLET: It's fine. We'll break so long as

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1 you'll produce Mr. Graham on another occasion and allow me to  
2 finish.

3 MR. MacMAIN: Sure. Absolutely.

4 (Whereupon, the deposition was continued sine die  
5 at 3:01 p.m.)

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1 COMMONWEALTH OF PENNSYLVANIA )

2 )

3 COUNTY OF DAUPHIN )

4 I, Emily R. Clark, a Court Reporter-Notary Public  
5 authorized to administer oaths and take depositions in the  
6 trial of causes, and having an office in Harrisburg,  
7 Pennsylvania, do hereby certify that the foregoing is the  
8 testimony of S. GARETH GRAHAM taken by Plaintiff at the  
9 Administrative Offices of Pennsylvania Courts, 5035 Ritter  
10 Road, Mechanicsburg, Pennsylvania.

11 I further certify that before the taking of said  
12 deposition the witness was duly sworn; that the questions and  
13 answers were taken down in stenotype by the said  
14 Reporter-Notary, approved and agreed to, and afterwards  
15 reduced to computer printout under the direction of said  
16 Reporter.

17 I further certify that the proceedings and  
18 evidence are contained fully and accurately in the notes  
19 taken by me on the within deposition, and that this copy is a  
20 correct transcript of the same.

21 In testimony whereof, I have hereunto subscribed  
22 my hand this 21st day of February, 2003.

23

24

25

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Notary Public